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September 17, 1999

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VIA HAND DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-A325  
Washington, DC 20554

Re: MM Docket No. 99-153;  
File Nos. BRCT-940407KF and BPCT-940630KG

Dear Madam Secretary:

Transmitted herewith, on behalf of Reading Broadcasting, Inc., is an original and six copies of its Reply to Adams' Comments on RBI's Motion as to Past Broadcast Experience in the above-referenced docket.

An extra copy of the reply is enclosed. Please date-stamp the extra copy and return it to the courier for return to me.

Should there be any questions, please communicate with the undersigned.

Very truly yours,

HOLLAND & KNIGHT LLP

*Randall W. Sifers*

Randall W. Sifers

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In re Applications of	)	MM Docket No. 99-153
	)	
READING BROADCASTING, INC.	)	File No. BRCT-940407KF
	)	
For Renewal of License of	)	
Station WTVE(TV), Channel 51	)	
Reading, Pennsylvania	)	
	)	
and	)	
	)	
ADAMS COMMUNICATIONS	)	File No. BPCT-940630KG
CORPORATION	)	
	)	
For Construction Permit	)	

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To: Administrative Law Judge Richard L. Sippel

**REPLY TO ADAMS' COMMENTS ON  
RBI'S MOTION AS TO PAST BROADCAST EXPERIENCE**

1. Pursuant to the Presiding Officer's instructions at the September 10, 1999 status conference, Reading Broadcasting, Inc. ("Reading"), by its attorneys, hereby submits its *Reply to Adams' Comments on RBI's Motion As To Past Broadcast Experience* ("Comments") filed on September 13, 1999.

2. In its *Comments*, Adams states that because Reading filed a motion as to the past broadcast experience of Reading's principals Adams "cannot fairly be called upon to tender, and support, threshold offers of proof of adverse evidence regarding the past broadcast experience of any of the principals of RBI." *Comments* at ¶7. Adams also requests the Presiding Officer to dismiss Reading's *Motion* as redundant. *Comments* at ¶1.

3. In filing its *Motion as to Past Broadcast Experience of Principals of Reading Broadcasting, Inc.* ("Motion"), on September 3, 1999, Reading may have misread the Presiding Officer's *Order*, FCC 99M-47 (released August 9, 1999). In its *Motion*, Reading was not attempting to make a threshold showing that Reading has an unusually good past broadcast record. Rather, Reading was stating, for the record, the past broadcast experience for which credit is claimed with respect to Reading's shareholders.

4. It is difficult to accept Adams' stated need to modify its discovery process now underway in light of Reading's filing of its *Motion* in view of the Presiding Officer's *Order*, FCC 99M-47 (released August 9, 1999). *Comments* at ¶7. In the first ordering clause of the *Order*, the Presiding Officer clearly authorized both Reading and Adams to present evidence with respect to broadcast experience.<sup>1</sup> Moreover, the footnote to this clause clearly stated that broadcast experience was one of the comparative factors "on which the parties may obtain discovery and seek

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<sup>1</sup> The relevant ordering clause states:

IT IS ORDERED that the applicant parties ARE AUTHORIZED to present evidence that they deem appropriate with respect to proof of diversification of media outlet, efficient use of frequency (comparative signal coverage) and the "enhancement" factors (local residence, civic involvement, broadcast experience).<sup>8</sup>

*Memorandum Opinion and Order*, FCC 99M-47 (released August 9, 1999).

to introduce evidence” and “[t]he parties’ ultimate legal positions on comparative criteria will be submitted in trial briefs after discovery and exchange of cases.”<sup>2</sup> *Id.*

5. Given Adams’ demonstrated knowledge regarding the scope of evidence deemed relevant in this case, it seems reasonable for Adams to have presumed that Reading would introduce evidence regarding the past broadcast experience of its principals and therefore, would tailor its discovery process accordingly. After all, Adams acknowledges that “the entire broadcasting career of an individual is relevant” *Comments* at ¶ 2, and that “broadcast experience embraces all categories of roles with regard to broadcasting.” *Comments* at ¶3. If anything, Reading’s *Motion* further assists Adams in tailoring its discovery efforts. Thus, it is difficult to understand Adams’ basis for requesting the Presiding Officer to dismiss Reading’s *Motion*.

6. Finally, to the extent that Adams claims that an adverse showing could be the basis for assessing a comparative demerit for past broadcast experience (as opposed to past broadcast record), Reading disagrees. Under well-established

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<sup>2</sup> The relevant footnote states, in relevant part:

<sup>8</sup> This is a preliminary ruling on the scope of the comparative factors (which were specified by the applicant parties) on which the parties may obtain discovery and seek to introduce evidence. No party is being required to state a position at this time on what is a definitively valid comparative standard for deciding this case if the renewal expectancy is not dispositive. . . . The parties’ ultimate legal positions on comparative criteria will be submitted in trial briefs after discovery and exchange of cases.

*Id.*

Commission precedent, a principal's past broadcast experience, as an enhancement factor, is traditionally considered for award of qualitative enhancement credit. The credit awarded ranges from no credit to substantial credit. Thus, past broadcasting experience, like local residence and civic involvement, is only a "plus factor" in the comparative analysis. Although a comparative demerit could be assessed for an unusually poor broadcast record, it would be improper to assess a demerit for past broadcast experience. *See Ronald Sorenson*, 5 FCC Rcd 3144 at ¶12 (Rev. Bd. 1990) *citing New Continental Broadcasting Co.*, 88 FCC 2d 830, 837, 849 (Rev. Bd. 1981) (subsequent history omitted); *Garrett Broadcasting Service v. FCC*, 513 F.2d 1056 n.40 (D.C. Cir 1975); *TV 9, Inc. v. FCC*, 495 F.2d 941 n.2 (Supplemental Decision D.C. Cir. 1973). However, at this time, the issue does not seem ripe for a decision.

Respectfully submitted,  
READING BROADCASTING, INC.

By: *Randall W. Sifers*  
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September 17, 1999

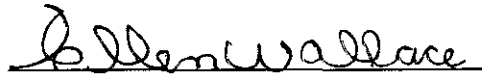
## CERTIFICATE OF SERVICE

I, Ellen Wallace, a secretary in the law firm of Holland & Knight, LLP, do hereby certify that on September 17, 1999, a copy of the foregoing REPLY TO ADAMS' COMMENTS ON RBI'S MOTION AS TO PAST BROADCAST EXPERIENCE was delivered by hand to the following:

The Honorable Richard L. Sippel  
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